IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 15499 of 2005

Between:

K.Venkata Ramana, s/o K.Raja Rao,
No.99, Parama Reddy Hills, Rajendranagar Corss Roads, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep., by Secretary, Industries and

Commerce (Mines-II) Department, Secretariat, Hyderabad.
2 Director of mines and Geology, Andhra Pradesh, BRKR Buildings,

Hyderabad.
3 Assistant Director of Mines and Geology, Ongole, Prakasam District.
4 Superintending Engineer, Nagarjuna Sagar Project Canals, Ongole,

Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or mandamus or any other appropriate writ declaring that the action of the 1st respondent contained in Memo No.12682/M.II(1)/2005-5 dated 02-07-2005 proposing permature termination/cancellation of the quarry lease of the petitioner in respect of the land in Sy.Nos.382/2-P and 406 of Devarapalem Village, Chimakurthy Mandal, Prakasam District, is arbitrary and illegal and direct the respondents not to interfere with the quarrying operations of the petitioner over the said land as per the quarry lease dated 02-11-2004 and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

The Court at the admission stage made the following :

O R D E R:

The petitioner seeks a Mandamus declaring the action of the first respondent in issuing a memo, dated 02-07-2005, proposing premature termination/cancellation of the quarry lease under Section 4(A)(3) of the Mines and Minerals (Development and Regulations) Act, 1957 (hereinafter referred to as 'the Act') in respect of the land to an extent of Ac.12-44 cents in Sy.Nos.382/2-P and 406 of Devarapalem Village, Chimakurthy Mandal, Prakasam District, as illegal and arbitrary, and consequently to direct the respondents not to interfere with the quarrying operations of the petitioner as per quarry lease, dated 02-11-2004, in respect of the said land.

The case of the petitioner is that he was granted a quarry lease of Black Granite (minor mineral) as per proceedings, dated 14-10-2004, issued by the second respondent in respect of land-in-question for a period of twenty years and accordingly a lease deed, dated 02-11-2004, was executed in his favour by the third respondent, and that he is entitled to carry on quarry operations till the expiry of the lease period. While so, the first respondent issued a memo, dated 02-07-2005, which is said to have been received by the petitioner on 05-07-

2005, proposing premature cancellation of the lease on the ground of proposed construction of Ramateertham Balancing Reservoir at Chimakurthy Mandal, Prakasam District, for the purpose of providing water supply scheme to Ongole town and nearby villages as well and to ensure assured water for NSP canal irrigating surrounding area of Chimakurthy.

The learned counsel for the petitioner contends that the construction of reservoir is at the tender stage and it will take more than five years to complete the project and, as such, the issuance of notice at this stage is unwarranted and the proposed termination of the contract of the petitioner invoking Section 4A (3) of the Act, is unconstitutional and therefore, sought for interference of this Court.

Heard the learned counsel on either side and perused the material available on record.

The power of the Government to cancel/terminate the lease, in public interest, as enshrined under Section 4A (3) of the Act, is not in dispute and cannot be disputed. This apart, the impugned memo, dated 02-07-2005, is a show cause notice requiring the petitioner, within fifteen days, to submit explanation for the proposed premature termination of the lease. The petitioner ought to have submitted explanation instead of straightaway approaching this Court invoking the extraordinary jurisdiction under Article 226 of the Constitution of India, for consideration of the respondents. On this ground *per se*, the writ petition is liable to be dismissed and is accordingly dismissed. No order as to costs. As requested by the learned counsel for the petitioner, since the impugned order, dated 02-07-2005, which is said to have been received by the petitioner on 05-07-2005, grants two weeks time for submission of explanation, which has already expired, now two weeks time is granted, from the date of receipt of a copy of this order, to the petitioner for submission of explanation for consideration of the respondents. The respondents in turn are directed to consider the same and pass appropriate orders in accordance with law.

(ELIPE DHARMA RAO, J)

Date:18-07-2005

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To

1 The Secretary, Government of Andhra Pradesh, Industries and

Commerce (Mines-II) Department, Secretariat, Hyderabad.
2 Director of mines and Geology, Andhra Pradesh, BRKR Buildings,

Hyderabad.
3 Assistant Director of Mines and Geology, Ongole, Prakasam District.
4 Superintending Engineer, Nagarjuna Sagar Project Canals, Ongole,

Prakasam District.

5 Two CCs to the Government Pleader for Industries and Commerce, High Court of A.P., Hyderabad. (O.U.T.)

6 Two CD copies.